

Subcommittee on Financial Reform
Revised Staff Report on Balanced Budget by James Ingram

The full Committee voted to amend the work-plan to include consideration of the issue of a balanced budget requirement. This report addresses the question of whether the City should include language requiring a balanced budget in the city charter.

Discussion of the Balanced Budget Concept

If the Committee decided to recommend inclusion of a balanced budget mandate among its reforms, then Section 68 would likely be the best place in the charter for a "balanced budget" requirement. The inclusion of "balanced budget" language could be a political benefit, and could be drafted so as not to interfere with the current charter requirements regarding bonded indebtedness. This might be another "selling point" for the charter amendments recommended by the Charter Review Committee.

FYI: At present, California cities are subject to the Prop 13, Prop 218 and Gann Limits provisions of the State Constitution (Articles XIII A and XIII B). As the Berkeley City Manager indicates in that city's "Glossary of Budget Terms," a California city's budget is limited in the following manner:

"Spending Limitation (Gann Limit) – Article XIII B of the California Constitution establishes a spending limitation on government agencies within California. The spending limit is a mandated calculation of how much the City is allowed to expend in one fiscal year. The amounts of appropriations subject to the limit are budgeted proceeds of taxes. The total of these budgeted revenues cannot exceed the total appropriations limit. Annually, local governments may increase the appropriate limit by a factor comprised of the change in population combined with the California inflation rate as determined by the State Finance Department."¹

Present Charter Sections with Implicit or Express Balanced Budget Requirements

Section 39 of the present charter states that "No contract, agreement, or other obligation for the expenditure of public funds shall be entered into by any officer of the City and no such contract shall be valid unless the Auditor and Comptroller shall certify in writing that there has been made an appropriation to cover the expenditure and that there remains a sufficient balance to meet the demand thereof."

Section 69 of the present charter does require the Manager to submit "a general budget summary setting forth the aggregate figures of the budget in such manner as to show the balanced relations between the total proposed expenditures and the total anticipated income and other means of financing the budget for the ensuing year..."

Section 70 implies that there is to be a balanced budget because if there is a need to increase salaries in the best interest of the City, the action to address this problem is subject to the caveat that funds be available.

¹ <http://www.ci.berkeley.ca.us/budget/GlossaryofTerms.html> accessed on June 7, 2007.

Section 74 requires the Manager to provide a sufficient appropriation for the City's debt, which is to be included in the Annual Appropriation Ordinance. If this is not done, the Auditor and Comptroller must set up an appropriation account to fund the debt, and implicitly do so before using City funds for other purposes.

Section 75 of the present charter does require the Council to set taxes at a level sufficient to meet budget requirements.

Section 80 requires the approval of the Auditor and Comptroller before the City enters into any contract, agreement or obligation requiring an appropriation. The Auditor and Comptroller must first certify to the Council that the money for the appropriation is in the treasury and otherwise unencumbered.

Section 92 does not permit the city to incur obligations in excess of its constitutional authority (Gann Limits).

Section 99 requires that all votes to create debt be either accompanied or preceded by establishment of a tax to pay off the principal and interest of such debts.

Section 290 (b)(2)(B) requires that the Mayor's and Council's actions in connection with the modification, veto and override process for the budget be "subject to the balanced budget requirements set forth in section 71." In actual fact, there is no actual requirement of a balanced budget under Charter Section 71.

Other Cities' Experiences with a Balanced Budget Requirement

The Subcommittee requested research regarding the actual workings of balanced budget requirements in some cities that include these in their charters. Therefore, SDCRC staff are presently conducting interviews of financial officers from a few of the cities covered in the earlier survey, in particular, New York City, Philadelphia, Chicago and Los Angeles. There are many varying perspectives on the balanced budget issue, depending on whether one communicates with controllers, chief financial officers, chief legislative analysts, council budget committees, or other budgetary players. Consequently, we wanted to be a little more scientific in our research. We have reviewed the public administration literature on the municipal balanced budget, which includes surveys of both states and cities, and their financial experiences with operating under a balanced budget requirement.

The best article in the literature is Carol W. Lewis's 1994 *Public Administration Review* article, "Budgetary Balance: The Norm, Concept, and Practice in Large U.S. Cities" (Volume 54, Number 6, pp. 515-524). Lewis found that 20 of the nation's 50 states require that their municipalities balance their budgets. 17 states require them through statute, while 3 mandate them in the state constitution. Texas requires balanced budgets of some, though not all of its cities (apparently by statute). California is not one of the states that constitutionally or statutorily require their cities to balance their budgets, although the Gann Appropriation Limits (Prop 4, 1979, Article XIII B of California's Constitution) do act to some degree to counteract the indirect deficit-producing consequences of property tax constrictions (Prop 13, 1978, Article XIII A of California's Constitution). California's city charters are the vehicle through which most of the state's major cities are required to maintain a balanced budget.

Despite the fact that 29 states impose no statutory or constitutional requirements for

balanced budgets on their municipalities, many cities do face such mandates through their city charters. Irene Rubin, one of the leading experts in the country on public budgeting, stated in 1993 that "Cities, like states, are required to balance their budgets" (Rubin, *The Politics of Public Budgeting*, p. 198). Likewise, Glenn Cope wrote in 1992 that "Most local governments are required by their charters, state laws, or both, to balance their operating budgets" (Cope, "Walking the Fiscal Tightrope: Local Budgeting and Fiscal Stress," *International Journal of Public Administration*, Volume 5, p. 1099). In Carol Lewis's survey of the United States' 100 most populous cities, she found near unanimity in the requirement for balanced budgets. Only Wichita, Kansas was not required to balance its local budget.

The stage at which a budget is required to be in balance is also an important issue. A city could be required only to submit a balanced budget, rather than being required to show no deficit at the end of the year. 84 of the country's 100 largest cities require the executive to submit a balanced budget, and 86 of them require the legislature to adopt a balanced budget. Only 35 formally prohibit a year-end deficit; operating results must balance in these cities, although reserves and other tactics can be used to achieve this outcome.

34 of the largest 100 cities must balance operating results over the course of budget implementation, while 24 require to budget to be balanced at submission, adoption and year end. These cities must, in effect, rebudget through the course of the year to ensure that operations match fiscal expectations. New York City was required to rebudget quarterly after the 1975 fiscal crisis impelled the state to act. In 2004, New York City ensconced this state mandate within its city charter.

Carol Lewis examined the workings of the balanced budget requirement on the very eve of the Orange County bankruptcy. In fact, her article was published in the November 1994, the month before that fiscal crisis occurred. Consequently, she wrote of Bridgeport, Connecticut as the "largest general purpose unit of government ever to petition under the federal Bankruptcy Code" (Lewis, 519). Since the city was not insolvent, the federal judge did not permit the bankruptcy filing to proceed. Lewis indicates that Bridgeport had very stringent charter requirements to balance its budget, and tried to use bankruptcy court as a way to avoid fiscal discipline.

Lewis goes on to point out that the balanced budget requirement is no magic bullet. Cities find ways to technically comply with balanced budget requirements while resisting authentic compliance with the spirit of the mandate. Such tactics to achieve formal compliance may include: "use of reserves; one-shot revenues such as asset sales; shifting costs off the general fund, interfund transfers, and shifting costs to the capital budget; underfunding accrued liabilities such as pensions; delaying deliveries, payrolls, and payments to the next fiscal year; estimation manipulation or distortion; using plugs such as anticipated and even unidentified (and perhaps illusory) savings or revenues; and turning to off-budget entities, indiscernible credit arrangements, loan guarantees, and tax expenditures. Not surprisingly, some entrenched techniques sacrifice economy for efficiency; for example, manipulation of employee benefits may translate into future cost escalations. A testament to ingenuity, this litany accommodates tactics designed for both short-term flexibility and formalistic compliance" (p. 522). Lewis reminds readers of the "magic asterisk" that Reagan Era OMB Director employed as an example of the "stamped gimmicks—the stuff of smoke and mirrors" (p. 521).

Lewis gives evidence that the cities with requirements for adopting a balanced

budget have produced mixed results in terms of bond ratings. Buffalo, Cleveland, New Orleans, Philadelphia, Pittsburgh and St. Louis are required to adopt balanced budgets, yet have credit ratings in the B's and below. She concludes that "Municipal budgeting cannot be fruitfully reduced to a single criterion, even one as widely accepted as budgetary balance" (p. 523). She recalls H. L. Mencken's observation that "For every human problem, there is a solution that is simple, neat, and wrong" (p. 523).

Ultimately, Lewis's study confirms "the pivotal role of balance in municipal budgeting" but "cautions against overrating the power of balance as budgetary disciplinarian" (p. 523). In Aristotelian terms, the balanced budget may be a necessary but not a sufficient condition to ensure municipal fiscal responsibility. Authentic compliance with the mandate would require commitment to more than mere formalism, which means that a city has made the tough choices necessary to confront realities rather than sweeping them under the rug.

Jonathan Kahn points out in his remarkable book on *Budgeting Democracy* that the invention of the budget was critical to remaking the connection between citizens and their government. When the experts of New York City's Bureau of Municipal Research brought the concept to local government in the early 1900s, they allowed the citizen-state relationship to be recast. The United States' 1921 adoption of the Budget Act brought this innovation to the national level. More recently, public faith in government has been compromised by the red ink of deficit spending and the use of indebtedness to balance the federal budget. In this new era, the concept of a "balanced budget" has become as important as the budget concept itself was to the Progressive Era's transformation of the connection between the public and the government.

Comparative Analysis of Specific Cities on the Balanced Budget Requirement

Based on the request of the Subcommittee on Financial Reform, the staff has assembled comparative information regarding which cities have balanced budget requirements in their charters. For the purposes of this report, we examined strong mayor cities in the United States and California. The sample includes all strong mayor cities among the largest 40 U.S. cities, and all strong mayor cities among California's 13 largest cities by population.

Cities with Charters That Require Balanced Budgets

New York City
Philadelphia
Nashville-Davidson
Denver
New Orleans
Los Angeles
San Diego
San Francisco
Oakland
Fresno

Cities with Charters Not Expressly Requiring Balanced Budgets

Detroit
Columbus
Boston

Cleveland

Details on the Cities Surveyed

1. New York City Charter Section 258 provides:

Standards for budget and financial plan. a. The operations of the city shall be such that, at the end of the fiscal year, the results thereof shall not show a deficit when reported in accordance with generally accepted accounting principles. The mayor shall take all actions necessary in accordance with the provisions of the charter, including but not limited to section one hundred six, or other applicable law to ensure that the city is in compliance with this subdivision.

b. Pursuant to the procedures contained in subdivision c of this section, each year the mayor shall develop, and from time to time modify, a four year financial plan. Each such financial plan and financial plan modification shall comply with the requirements of subdivision d of this section and shall conform to the following standards: (1) For each fiscal year, the city's budget covering all expenditures other than capital items shall be prepared and balanced so that the results thereof would not show a deficit when reported in accordance with generally accepted accounting principles and would permit comparison of the budget with the report of actual financial results prepared in accordance with generally accepted accounting principles.

(2) The city shall issue no obligations which shall be inconsistent with the financial plan prepared in accordance with this section.

(3) Provision shall be made for the payment in full of the debt service on all bonds and notes of the city and for the adequate funding of programs of the city which are mandated by state or federal law and for which obligations are going to be incurred during the fiscal year.

(4) All projections of revenues and expenditures contained in the financial plan shall be based on reasonable and appropriate assumptions and methods of estimation. All cash flow projections shall be based upon reasonable and appropriate assumptions as to sources and uses of cash (including but not limited to the timing thereof), and shall provide for operations of the city to be conducted within the cash resources so projected.

(5) A general reserve shall be provided for each fiscal year to cover potential reductions in projected revenues or increases in projected expenditures during each such fiscal year. The amount provided for such general reserve shall be estimated in accordance with paragraph four of this subdivision, but in no event shall it be less than one hundred million dollars at the beginning of any fiscal year.

(6) In the event that the results of the city's operations during the preceding fiscal year have not comported with subdivision a of this section, the first fiscal year included in any financial plan shall make provision for the repayment of any deficit incurred by the city during the preceding fiscal year.

c. The financial plan shall be developed and may from time to time be modified, in accordance with the following procedures:

(1) The mayor shall, in conjunction with the preliminary budget prepared pursuant to section one hundred one, prepare a financial plan covering the four ensuing fiscal years (the first year of which is the year for which such preliminary budget is being prepared) as well as updating the current fiscal year.

(2) After the preparation by the mayor of a financial plan in accordance with the preceding paragraph, the mayor shall reexamine, at least on a quarterly basis, the projections of revenues and expenditures and other estimates contained in the

financial plan, and shall prepare modifications in accordance with the following procedures:

(a) The budget message, issued pursuant to section two hundred fifty of this chapter, shall include an update of the financial plan covering the four ensuing fiscal years (the first year of which is the year for which such budget message is being prepared) as well as an update for the current fiscal year.

(b) Not later than thirty days after the budget is finally adopted, the mayor shall issue an update of the financial plan covering the four ensuing fiscal years (the first year of which shall be the year for which such budget has been adopted) as well as an update for the fiscal year that is ending or has just ended. Such update shall reflect changes which were made in the budget in accordance with sections two hundred fifty-four and two hundred fifty-five; provided, however, that the budget adopted in accordance with such sections shall be consistent with the standards applicable to the financial plan set forth in this section.

(c) During the second quarter of the fiscal year, the mayor shall issue an update of the financial plan covering the fiscal year in which such quarter occurs and the three ensuing fiscal years.

(d) In addition, on such schedule as the mayor deems appropriate, the mayor may issue further updates of the financial plan during the fiscal year.

d. The financial plan shall include projections of all revenues, expenditures and cash flows (including but not limited to projected capital expenditures and debt issuances) and a schedule of projected capital commitments of the city. In addition, each financial plan and financial plan modification shall include a statement of the significant assumptions and methods of estimation used in arriving at the projections contained therein.

e. Notwithstanding any inconsistent provision of this charter, in the event of any change in generally accepted accounting principles, or change in the application of generally accepted accounting principles to the city, if the mayor determines that immediate compliance with such change will have a material effect on the city's budget over a time period insufficient to accommodate the effect without a substantial adverse impact on the delivery of essential services, the mayor may authorize and approve a method of phasing the requirements of such change into the budget over such reasonably expeditious time period as the mayor deems appropriate.

f. The powers, duties, and obligations set forth in this section shall be subject to the powers, duties, and obligations placed upon any state or local officer or agency, including but not limited to the New York state financial control board, by or pursuant to the New York State Financial Emergency Act for the City of New York, while such act remains in effect."

2. Philadelphia Charter Section 2-302 provides:

"2-302. Balancing the Budget.

Not later than the passage of the annual operating budget ordinance, the Council shall ordain such revenue measures as will, in the opinion of the Mayor, yield sufficient revenue to balance the budget. For this purpose new sources of revenue or increased rates from existing sources of revenue not proposed by the Mayor shall be deemed to yield in the ensuing fiscal year such amounts as the Mayor shall determine. The annual operating budget ordinance shall not become effective and the City Controller shall not approve any order for any expenditure thereunder until the Council has balanced the budget."

3. Detroit's Charter does not appear to require a balanced budget.

4. Columbus's Charter does not appear to require a balanced budget.
5. Nashville-Davidson's Charter Article 6 provides for balancing the city-county's budget in four separate sections:

"Sec. 6.03. Scope of the annual operating budget.

Section I of the annual operating budget shall apply only to the general services district and shall deal with those services and functions appertaining to the general services district, as set out by this Charter, or by ordinance of the council.

Section II of the annual operating budget shall apply only to the urban services district and shall deal with those services and functions appertaining to such urban services district, as set out in this Charter, or by ordinance of the council.

Each of the above described sections of the annual operating budget shall contain with respect to each of the operating funds of the metropolitan government to which they are applicable:

(a) An estimate of the unencumbered fund balance or deficit at the beginning of the ensuing fiscal year, and the amount of any reserves for designated purposes or activities includable in the operating budget.

(b) A reasonable estimate of revenues to be received during the ensuing year, classified according to source; but the estimated revenues from current and from delinquent property taxes shall not exceed the percentage of the total receivable from each such source collected during the last completed fiscal year; or the current fiscal year.

(c) Proposed expenditures for each organizational unit and activity in accordance with the established classification of accounts, including those capital outlays which are to be financed from the revenues of the ensuing year, and including all debt service requirements in full for such fiscal year payable from such fund.

In no event shall the total proposed expenditures from any fund exceed the total anticipated revenues plus the estimated unappropriated surplus, or fund balance, and applicable reserves and less any estimated deficit at the end of the current fiscal year.

Sec. 6.06. Action by council on operating budget.

After the conclusion of the public hearings, the council may amend the operating budget proposed by the mayor; except, that the budget as finally amended and adopted must provide for all expenditures required by law or by other provisions of this Charter and for all debt service requirements for the ensuing fiscal year as certified by the director of finance. Neither shall the council alter the estimates of receipts or other fund availability included in the budget document except to correct errors and omissions, in which event a full explanation shall be spread on the minutes of the council. In no event shall the total appropriations from any fund exceed the estimated fund balance, reserves and revenues, constituting the fund availability of such fund.

The council shall finally adopt an operating budget for the ensuing fiscal year not later than the thirtieth day of June, and it shall be effective for the fiscal year beginning on the following July 1st. Such adoption shall take the form of an ordinance setting out the estimated revenues in detail by source and making appropriations according to fund and by organizational unit, purpose or activity as set out in the budget document. If the council shall fail to adopt a budget prior to the beginning of any fiscal year, it shall be conclusively presumed to have adopted the budget as submitted by the mayor.

A copy of the adopted budget, certified by the metropolitan clerk, shall be filed in the office of the director of finance.

The amount set out in the adopted operating budget for each organizational unit, purpose or activity shall constitute the annual appropriation for such item, and no expenditure shall be made or encumbrance created in excess of the otherwise unencumbered balance of the appropriation, or allotment thereof, to which it is chargeable. This shall not preclude the impoundment of funds or additional appropriations as provided herein.

Sec. 6.07. Property tax levies.

The council shall levy an annual tax on real and personal property and merchants' ad valorem in the general services district, and the tax levy ordinance shall be the next order of business of the council after the adoption of the operating budget. The tax rate set by such ordinance shall be in two (2) parts; the general tax rate and the school tax rate.

The general tax rate set by such ordinance shall be such that a reasonable estimate of revenue from the levy shall at least be sufficient, together with other anticipated revenues, fund balances, and applicable reserves, to equal the total amount appropriated with the exception of the amount appropriated for schools and to provide in addition, a reasonable amount of working capital for each of the several funds.

The school tax rate set by the ordinance shall be such that a reasonable estimate of revenue from the levy shall at least be sufficient, together with other anticipated revenues, fund balances, and applicable reserves, to equal the total amount appropriated for schools and to provide in addition, a reasonable amount of working capital.

After the council has approved the annual operating budget of the urban services district, said council shall determine and declare the amount of revenue which must be produced from a tax levy upon the real and personal property and merchants' ad valorem within the urban services district. The urban council shall thereupon convene and it shall have a mandatory obligation by resolution to levy a property tax adequate with other available funds to finance the budget for urban services, as determined by the council; subject, however, to the requirements of section 1.04 of this Charter with respect to the tax on property in the newly annexed areas.

The willingness and ability of citizens to bear the burden of tax increases should always be considered. Therefore, notwithstanding any provisions above, real property tax rates shall not exceed the maximum rates approved by the voters of the county in a referendum. Such referendum may be authorized either by the mayor or by a majority vote of the council no more than once each calendar year pursuant to Tennessee Code Annotated section 2-3-204. The referendum shall read "The maximum real property tax rates for Davidson County shall be increased to:" followed by a list of rates. Voters shall be provided the two choices of FOR and AGAINST. The real property tax rates in effect as of November 7, 2006, shall be the maximum rates allowed until the first referendum occurs.

Sec. 6.09. Impoundment of funds.

Upon certification of the director of finance that the revenues or other resources actually realized with respect to any fund are less than was anticipated and are insufficient to meet the amounts appropriated from such fund, it shall be the duty of the mayor to impound such appropriations as may be necessary to prevent deficit operation."

6. Boston's Charter does not appear to require a balanced budget.

7. Denver's city-county Charter Sections 7.1.4 and 7.4.1 provide, respectively:

"Balanced budget; emergencies; contingency reserve.

The budget proposed by the Mayor shall not propose expenditures in excess of estimated opening balances and anticipated income; however, in estimating, the Mayor may reduce the anticipated income from property taxes by an amount for uncollectible taxes. In the general fund the budget estimates for the ensuing year shall include an amount as a year-end closing balance which amount shall not be expended except for emergencies approved by a two-thirds vote of Council, within the fiscal year to which the proposed budget applies but may be considered as income available for expenditures in preparation of the proposed budget for the following year. The proposed budget for the general fund shall also include an amount, not less than two (2) per cent of the total estimated expenditures set forth in the general fund for the ensuing year, for the payment of any expense, the necessity of which is caused by any casualty, accident or unforeseen contingency, after the passage of the annual appropriation ordinance. Revenues received during the year in excess of those projected, or an opening balance larger than projected, will automatically be added to the contingency reserve."

"Property tax levy; mill levy limitation.

The Council, after deducting the amount collectible from other sources, shall levy upon all taxable property, real and personal, within the limits of the City and County, the amount of taxes for City and County purposes necessary to provide for the payment during the ensuing fiscal year, of all properly authorized demands upon the treasury, not exceeding fifteen (15) mills on the dollar for all general City and County purposes upon the total assessed valuation of said property, and shall also, in addition thereto, levy the State and school district taxes. The foregoing limitation of fifteen (15) mills shall not apply to taxes which shall annually be levied by the Council for the payment of any general obligation bonded indebtedness of the City and County, now existing or hereafter created, or interest thereon, nor for sinking fund, nor for the indebtedness of any municipal corporation or quasi municipal corporation heretofore consolidated with or hereafter incorporated with, or annexed to, the City and County, or of the interest thereon; nor to special assessments for local improvements."

8. Cleveland's Charter does not appear to require a balanced budget.

9. New Orleans Charter, Section 6-102(4) provides:

"Where the estimated revenues from existing sources are insufficient to meet the recommended expenditures, the Mayor shall provide recommendations of new sources of revenues to balance the budget."

10. Los Angeles Charter Sections 331 and 332 require a balanced budget in the same way as San Diego—by requiring that taxation provide sufficient revenue to cover appropriations:

"Tax Levy.

Not earlier than the month of June but not later than the last day of the month in which the statement of property valuations within the City as required by law is received, the Council shall adopt an ordinance levying upon the assessed valuation of the property in the City, in accordance with the provisions of law, a rate of taxation

upon each one hundred dollars (\$100) of valuation, which, with the amounts, if any, transferred from the Reserve Fund in or for the current fiscal year subsequent to the adoption of the annual budget and the amount estimated to be received from fines, licenses and other sources of revenue, will be sufficient to raise the amount appropriated in the annual budget."

"Tax Levy - Alternate Method.

If the Council fails to levy a rate of taxation at the time and in the manner provided by the Charter, the Controller shall add to the budget the amount required to meet maturing portions of principal and interest on the bonded indebtedness of the City and of special districts in the City, and any special taxes lawfully imposed, and shall calculate a rate of taxation as provided in Section 331, not exceeding the limit provided by law. The Controller shall give public notice of the rate of taxation by publication in a newspaper of general circulation in the City or by other means provided by ordinance, and the tax rate calculated by the Controller shall be the rate of taxation of the City. The Controller is hereby vested with all necessary legislative power to carry out the provisions of this section."

11. San Diego does provide for a balanced budget at present, based upon several sections of the City's Charter (See the full report for details).

12. San Francisco's city-county Charter Sections 9.101(2) and 9.105 and 9.113(d) provide, respectively:

"The annual proposed budget and appropriation ordinances shall be balanced so that the proposed expenditures of each fund do not exceed the estimated revenues and surpluses of that fund. If the proposed budget contains new revenue or fees, the Mayor shall submit to the Board of Supervisors the relevant implementing ordinances at the same time the annual budget is submitted."

"No amendment to the appropriations ordinance may be adopted unless the Controller certifies availability of funds."

"No ordinance or resolution for the expenditure of money, except the annual appropriation ordinance, shall be passed by the Board of Supervisors unless the Controller first certifies to the Board that there is a sufficient unencumbered balance in a fund that may legally be used for such proposed expenditure, and that, in the judgment of the Controller, revenues as anticipated in the appropriation ordinance for such fiscal year and properly applicable to meet such proposed expenditures will be available in the treasury in sufficient amount to meet the same as it becomes due."

[Note well that San Francisco also requires a Rainy Day Reserve Fund in Section 9.113.5, as does NYC in the sections of its Charter above.]

13. Oakland's Charter Section 802 provides:

"Levy of Property Tax. Not later than the date set by state law for this purpose, the Council shall by resolution fix the rate of property tax to be levied and levy the tax upon all taxable property in the City. Such rate shall be adequate to meet all obligations of the City for the fiscal year, taking into account estimated revenue from all other sources. Should the Council fail to fix the rate and levy taxes within the time prescribed, the rate for the next preceding fiscal year shall thereupon be

automatically effective, and a tax at such rate shall be levied upon all taxable property in the City for the current fiscal year."

14. Fresno's Charter Section 1207 provides:

"TAX LEVY. On or before the last Tuesday in August in each year, the Council shall, by ordinance, levy such tax as may be necessary to meet the appropriations made (less the estimated amount of revenue from other sources), and all sums required by law to be raised on account of the City debt and interest thereon, together with such addition, not exceeding five per cent, as may be deemed necessary to meet commissions, fees and deficiencies from the estimates in the amount of taxes collected."

Appendix One: Current Charter Sections Related to the Balanced Budget

"SECTION 39. CITY AUDITOR AND COMPTROLLER.

The City Auditor and Comptroller shall be elected by the Council for an indefinite term and shall serve until his successor is elected and qualified. The City Auditor and Comptroller shall be the chief fiscal officer of the City. He shall exercise supervision over all accounts, and accounts shall be kept showing the financial transactions of all Departments of the City upon forms prescribed by him and approved by the City Manager and the Council. He shall submit to the City Manager and to the Council at least monthly a summary statement of revenues and expenses for the preceding accounting period, detailed as to appropriations and funds in such manner as to show the exact financial condition of the City and of each Department, Division and office thereof. No contract, agreement, or other obligation for the expenditure of public funds shall be entered into by any officer of the City and no such contract shall be valid unless the Auditor and Comptroller shall certify in writing that there has been made an appropriation to cover the expenditure and that there remains a sufficient balance to meet the demand thereof. He shall perform the duties imposed upon City Auditors and Comptrollers by the laws of the State of California, and such other duties as may be imposed upon him by ordinances of the Council, but nothing shall prevent the Council from transferring to other officers matters in charge of the City Auditor and Comptroller which do not relate directly to the finances of the City. He shall prepare and submit to the City Manager such information as shall be required by the City Manager for the preparation of an annual budget. He shall appoint his subordinates subject to the Civil Service provisions of this Charter.

(Amendment voted 06-04-74; effective 08-13-74.)

(Section 39 is modified by contrary language in Charter sections 265(b)(10) and 265(b)(11) during the operative period of Charter Article XV.)"

"SECTION 68.

BUDGET AND ACCOUNTING SYSTEM.

A complete budget and accounting system of municipal receipts and expenditures is hereby established.

(Amendment voted 04-21-53; effective 05-29-53.)"

"SECTION 69. FISCAL YEAR AND MANAGER'S ESTIMATE.

The fiscal year of the City shall begin with the first day of July and shall end with the next succeeding 30th day of June. On or before the first meeting in May of each year the Manager shall prepare and submit to the Council a budget of the expense of conducting the affairs of the City for the ensuing fiscal year. Departments not under

the Manager shall submit their annual budget estimates to the Manager, or to such official as he may designate, and in such form as he shall require on or before April 1 for transmittal in proper form by the Manager to the Council. The budget shall include a summary outline of the fiscal policy of the City for the budget year, describing in connection therewith the important features of the budget plan; a general budget summary setting forth the aggregate figures of the budget in such manner as to show the balanced relations between the total proposed expenditures and the total anticipated income and other means of financing the budget for the ensuing year, contrasted with corresponding figures for the current year. The classification of the estimate shall be as nearly uniform as possible for the main divisions of all Departments and shall furnish necessary detailed fiscal information.

The Council shall provide for printing a reasonable number of copies of the estimate thus prepared, for examination or distribution to citizens at least fifteen days before final passage. Copies shall also be furnished to the newspapers of the City and to each library thereof which is open to the public.

(Amendment voted 11-06-62; effective 01-21-63.)

(Amendment voted 11-04-69; effective 01-29-70.)"

"SECTION 70. POWER TO FIX SALARIES.

The Council shall have the power to fix salaries of the City Manager, the City Clerk, the City Treasurer, the City Auditor and Comptroller, and all other officers under its jurisdiction. All members of Commissions shall serve without compensation except where otherwise provided by State law or this Charter. Except as otherwise provided by law, the City Manager and other departmental heads outside of the departments under control of the City Manager shall have power to recommend salaries and wages subject to the personnel classification determined by the Civil Service Commission, of all other officers and employees within the total amount contained in the Annual Appropriation Ordinance for personal service in each of the several departments of the City Government. All increases and decreases of salary or wages of officers and employees shall be determined at the time of the preparation and adoption of the budget, and no such increase or decrease shall be effective prior to the fiscal year for which the budget is adopted; provided, however, that if during any fiscal year, the Council should find and determine that because of a significant change in living costs, the salaries and wages fixed for such fiscal year are not comparable to the level of other salaries and wages of other public or private employments for comparable services and as a result, the best interests of the City are not being protected or are in jeopardy, said Legislative Body, upon recommendation of the City Manager or other department head, and if funds are available, may revise such salary and wage schedules to the extent necessary to protect the City's interests.

(Amendment voted 03-13-51; effective 03-26-51.)

(Amendment voted 11-08-77; effective 01-20-78.)"

"SECTION 74. APPROPRIATION REQUIRED FOR CITY DEBT.

An appropriation on account of the debt of the municipality, at least equal to the amount or amounts, estimated by the Manager to be required for the purpose, shall be included in each Annual Appropriation Ordinance passed by the Council. If for any reason the Council fail to include such an appropriation in the Annual Appropriation Ordinance or shall appropriate for the debt of the municipality less than estimated by the Manager to be required for that purpose, or less than that actually required for that purpose, the Auditor and Comptroller shall nevertheless cause to be set up, an appropriation account for the full amount so estimated or

actually required and shall, notwithstanding any other appropriation made by the Council, transfer to such account out of any moneys of the municipality derived from taxes and paid into the Treasury, such amount or amounts as may be necessary to bring the appropriation for the City debt up to the full amount of the Manager's estimate or the sum actually required.

Any taxpayer of the City or owner of any bond thereof may bring suit against the Auditor and Comptroller in the Superior Court to enforce the provisions of this section and if, upon such suit, it be found that the Council has failed to make an appropriation for the full amount estimated by the Manager and actually required for the City debt and that the Auditor and Comptroller has failed to set up the appropriation account and provide for transfers thereto as required by this section, the court shall order the establishment of such appropriation account and the necessary transfers thereto as hereinbefore provided. And such action by the court shall have the same force and effect in regard to appropriations for the City debt as though taken by the Council in the Annual Appropriation Ordinance."

"SECTION 75. ANNUAL TAX LEVY.

The Council shall adopt, not later than the last day in August of each year, an ordinance levying upon the assessed valuation of all property in the City, a rate of taxation sufficient to raise the amount estimated to be required in the annual budget and as herein provided, less the amounts estimated to be received from fines, licenses, and other sources of revenue, using as a basis the value of the property as assessed by the County Assessor, as the same may be equalized and returned to the Council by County Auditor as provided by general law. The Council shall immediately thereafter transmit to the County Auditor of the County of San Diego, a statement of such rate or rates so fixed by it.

(Amendment voted 11-04-75; effective 12-01-75.)"

"SECTION 80. MONEY REQUIRED TO BE IN TREASURY.

No contract, agreement, or other obligation, involving the expenditure of money out of appropriations made by the Council in any one fiscal year shall be entered into, nor shall any order for such expenditure be valid unless the Auditor and Comptroller shall first certify to the Council that the money required for such contract, agreement or obligation for such year is in the treasury to the credit of the appropriation from which it is to be drawn and that it is otherwise unencumbered. The certificate of the Auditor and Comptroller shall be filed and made a matter of record in his office and the sum so certified as being in the treasury shall not thereafter be considered unencumbered until the City is discharged from the contract, agreement or obligation. All unencumbered moneys actually in the treasury to the credit of the appropriation from which a contract, agreement or obligation is to be paid and all moneys applicable to its payment which before the maturity thereof are anticipated to come into the treasury to the credit of such appropriation shall, for the purpose of such certificate, be deemed in the treasury to the credit of the appropriation from which the contract, agreement or obligation is to be paid.

(Amendment voted 06-04-68; effective 07-22-68.)"

"SECTION 92. BORROWING MONEY ON SHORT TERM NOTES.

Bonds or notes may be issued in anticipation of the collection of special assessments, and bonds, notes, or registered warrants on the treasury may be issued in anticipation of the collection of taxes and revenues, as authorized by the City Council by resolution and shall not be deemed the creation of debt within the meaning of Section 90 of this Article. Bonds, notes or registered warrants on the treasury issued

in anticipation of the collection of the taxes and revenues of any fiscal year may be issued during each fiscal year and each such bond, note, or warrant shall specify that it is payable out of the taxes of the fiscal year in which issued, and shall not bear a higher rate of interest than the maximum rate established by Council Resolution within the legal limit, and the total amount of such bonds, notes or warrants, authorized and issued in any fiscal year shall not, in the aggregate, be more than twenty-five (25) per cent of the total appropriations of the City for such year. Nothing herein contained shall be construed to authorize the incurring of an obligation against the municipality in excess of that authorized to be incurred by the Constitution of the State of California.

(Amendment voted 11-06-62; effective 01-21-63.)

(Amendment voted 09-21-65; effective 02-10-66.)

(Amendment voted 06-03-80; effective 07-16-80.)

(Amendment voted 11-06-90; effective 02-19-91.)"

"SECTION 99. CONTINUING CONTRACTS.

The City shall not incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year unless the qualified electors of the City, voting at an election to be held for that purpose, have indicated their assent as then required by the Constitution of the State of California, nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also provision to constitute a sinking fund for the payment of the principal thereof, on or before maturity, which shall not exceed forty years from the time of contracting the same; provided, however, anything to the contrary herein notwithstanding, when two or more propositions for incurring any indebtedness or liability are submitted at the same election, the votes cast for and against each proposition shall be counted separately, and when the qualified electors of the City, voting at an election for that purpose have indicated their assent as then required by the Constitution of the State of California, such proposition shall be deemed adopted. No contract, agreement or obligation extending for a period of more than five years may be authorized except by ordinance adopted by a two-thirds' majority vote of the members elected to the Council after holding a public hearing which has been duly noticed in the official City newspaper at least ten days in advance.

(Amendment voted 04-22-41; effective 05-08-41.)

(Amendment voted 06-04-68; effective 07-22-68.)"

SECTION 290 (b)(2)(B)

"The Council shall thereafter have five business days within which to override any vetoes or modifications made by the Mayor pursuant to Section 290(b)(2)(A). Any item in the proposed budget that was vetoed or otherwise modified by the Mayor shall remain as vetoed or modified unless overridden by the vote of at least five members of the Council. In voting to override the actions of the Mayor, the Council may adopt either an amount it had previously approved or an amount in between the amount originally approved by the Council and the amount approved by the Mayor, subject to the balanced budget requirements set forth in section 71."

[The City Attorney representative present at a meeting of our Subcommittee has pointed out that there is no actual requirement of a balanced budget under Section 71 of the Charter.]